

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

210

CRM-M-25968-2021

Date of decision: 26.04.2023

BALDEV SINGH @ DEBA MISTRI

....Petitioner(s)

Versus**STATE OF PUNJAB**

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. V. K. Sandhir, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

1. Present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No. 151 dated 29.07.2018, under Section 21 of the NDPS Act, 1985 registered at Police Station Lopoke, District Amritsar.

2. Learned counsel contends that the petitioner has been in custody for the last about 2 years 2 months, having been arrested on 05.03.2021. The petitioner was not named in the FIR, however, it is on the basis of the disclosure statement of the co-accused Bikramjit Singh @ Bikkar that the name of the petitioner has surfaced. No recovery was effected from the petitioner, however, 1.4 kgs of heroin was recovered from the said co-accused. He relies on the judgment passed by Hon'ble The Supreme Court in the case of **Toofan Singh vs. State of Tamil Nadu**, 2021 (1) RCR (Crl.) 1. Out of 18 prosecution witnesses, only 4 have been examined. Though, there is one more case against the petitioner under the NDPS Act, however, he is on bail in the same and no recovery had been effected from him in that case as well. He is involved in one case under the Excise

Act and under Section 174-A IPC. In this regard he relies on the judgment dated 16.01.2012 passed by Hon'ble The Supreme Court in Criminal Appeal No.159 of 2012 titled as **Maulana Mohd. Amir Rashadi vs. State of U.P. and others**, 2012(2) SCC 382.

3. Custody certificate filed by the learned State counsel is taken on record, as per which the petitioner has been in custody for the last 2 years 1 month and 21 days.

4. Learned State counsel opposes the bail on the ground that commercial quantity was recovered from the co-accused namely Bikramjit Singh @ Bikkar and on his disclosure statement, the petitioner was nominated. He has remained proclaimed offender for one and a half year. There are other cases against the petitioner. However, he is unable to controvert the other submissions made by learned counsel for the petitioner in particular with regard to the stage of the trial, no recovery having been effected from him in this case and the other case registered against him under the NDPS Act.

5. Heard.

6. Hon'ble The Supreme Court of India in the case of **Maulana Mohd. Amir Rashadi** (Supra) had held that, "As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc."

7. In view of the abovesaid facts and circumstances of the case, the observations made in aforesaid judgment, and that the petitioner has been in custody for the last 2 years 1 month and 21 days; he is on bail in the other case; only

4 out of 18 prosecution witnesses have yet been examined; the trial is likely to take sufficiently long time; his further detention behind bars would not serve any useful purpose, thus the present petition for grant of regular bail deserves to be allowed.

8. As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate concerned and subject to his not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
6. The petitioner shall not in any manner misuse his liberty.
7. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
8. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

9. It is made clear that in case of any infraction of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

10. In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

26.04.2023

Mehak	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No